IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 160 of 2003

Between:

Ch.Vishnu Murthy S/o. Ch.L.Narasimha Rao, Assistant Engineer in the Office of the Executive Engineer Inchampally Project Investigation Division No.1, under control of Superintending Engineer, Inchampally Project Investigation Circle, Hanamkonda.

..... PETITIONER

AND

1 The Secretary to Government of Andhra Pradesh,
Irrigation and CAD Department, Secretariat,
Hyderabad
2 The Engineer-in-Chief, Administrative Wing I&CAD Department,
Government of A.P., Erramanzil, Hyderabad.
3 The Superintending Engineer, I&CAD Department,
SRSP Stage II Circle, (Formerly Pochampad Investigation Circle)
Subedari, Hanamkonda Warangal District.
4 The Superintending Engineer, I&CAD Department,
Inchampally Project Investigation Circle,
Hanamkonda Warangal District.
5 B.Kumara Swamy, Deputy Executive Engineer,

Sub Division No.5 of Division No.IV, SRSP I & QC, KC Camp,

Hanamkonda, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction particularly one in the nature of Writ of Certiorari directing the respondent No.1 to give all notional benefits to the petitioner on par with the Respondent No.5 namely Draughtsman Grade II with effect from 1/7/92 Draughtsman Grade 1 with effect from 3/6/97 and treating the Asst. Engineer's service from 5/98 to this date as field service which require two years field service compulsory for Deputy Executive Engineer promotion in the category of Draughtsman Grade I by relaxing the rules as relaxed in the case of Respondent NO.5 in the GO.Rt.No. 664 Irrigation & CAD Services IV Dept., Dt.10/03/2002 the petitioner possesses the requisite qualification i.e., Diploma in Civil Engineering and passed PWD officers subordinates Account Test with reference to the notional promotion as Draughtsman Grade III given with effect from 3/6/83 as the case was opened after prolonged correspondence of about 14 years accepting administrative mistake by the respondent No.2 herein in the proceedings No.PIC/Wgl/S1/EC1/131/34/m Dt.5/3/98 in compliance of the orders issued in APAT Hyderabad in OA.No.6701/97. However, the claim of the petitioner for promotion to Draughtsman Grade II was not considered as ordered by the APAT in their order in accordance with seniority and no orders were passed. As the petitioner ranks senior to Respondent No.5 in accordance with presidential orders on zonalisation of posts as per GO.Ms.No.564 GA/SPF.A/Dept Dt.5/12/1985 the petitioner comes under zonal post and deserves the Deputy Executive Engineer promotion with effect from 13/6/2002.

Counsel for the Petitioner: MR.J.R.MANOHAR RAO, AMICUS CURIAE.

Counsel for Respondents 1 to 4: Government Pleader for Services-II.

Counsel for the Respondent No.5: MR.M.PANDURANGA RAO

The Court made the following:

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ORAL ORDER: (per GB.J.)

The Writ Petition is filed assailing the order passed by A.P. Administrative Tribunal (for short Tribunal) in O.A.No.6701 of 1997, dated 16.12.1997.

2. The matter relates to promotion of the petitioner to the post of Draughtsman Grade II and Grade I respectively. It is the case of the petitioner that as he was unduly denied the promotion to the post of Draughtsman Grade II and Grade I, he approached the Tribunal on earlier occasion by filing R.P.No.6505 of 1997 and the Tribunal disposed of the said R.P. directing the authorities to consider his case and pass appropriate orders in accordance with the Rules. Considering the orders passed by the Tribunal, the authorities passed orders on 5.3.1998 promoting the petitioner to the cadre of Draughtsman Grade III with retrospective effect from March, 1983, but, however, the subsequent promotions were not carried out and he submits that as his juniors continued to occupy the higher post, he should also be promoted to the said post. Since his request was not considered, he filed O.A.No.6701 of 1997. The Tribunal, after considering the material available before it, rejected his case on the ground that since the post of Draughtsman Grade II and Grade I are confined to the Circle level post, petitioner cannot be given benefit to the post of Grade II or Grade I. Against the said order, the present Writ Petition has been filed.

3. Mr.J.R.Manohar Rao, learned Amicus Curiae, submits that as per the Presidential Order the post of Draughtsman Grade I, Grade II and Grade III fall within Zone V and the petitioner was working in the Circle under Zone V earlier to the Presidential Order, the projects were treated as separate unit, but after the Presidential Order came into being, the projects would fall within the presidential zone. Therefore, the learned Amicus Curiae would submit that irrespective of the Circles where the petitioner worked, they fall within one zone, and therefore his case has to be considered in accordance with the Rules.

4. On the other hand the learned Government Pleader for Services-II submits

that prior to 1981, the petitioner worked at various places and from 1985 onwards he was working in the Circle within Warangal zone. He further submits that since the Circle in which the petitioner is working and the Circles in which the other unofficial respondents were working are different, his seniority could not be counted and for that reason the petitioner cannot claim the benefit of promotion.

5. We are unable to accept the contention of the learned Government Pleader. Since both the Circles fall under Zone V, the case of the candidates has to be considered on the basis of zonal seniority. But in the instant case there is time lag and on account of which number of persons appear to have been promoted to higher posts. Under those circumstances, we feel it inappropriate to disturb the promotions already made. However, we direct the authorities to consider the case of the petitioner basing on the zonal seniority and grant promotion, if necessary with retrospective effect, in accordance with the Rules, and this shall be done without disturbing the candidates who were already promoted and working in the respective zones.

6. With the direction indicated above, the Writ Petition is disposed of. No costs.

(G.BIKSHAPATHY, J.)

30th December, 2004.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary to Government of Andhra Pradesh,
Irrigation and CAD Department, Secretariat,
Hyderabad
2 The Engineer-in-Chief, Administrative Wing I&CAD Department,
Government of A.P., Erramanzil, Hyderabad.
3 The Superintending Engineer, I&CAD Department,
SRSP Stage II Circle, (Formerly Pochampad Investigation Circle)
Subedari, Hanamkonda Warangal District.
4 The Superintending Engineer, I&CAD Department,
Inchampally Project Investigation Circle,
Hanamkonda Warangal District.
5 2 CCs to G.P. for Services-II, High Court of A.P. Hyderabad. (OUT)

6 2 CD copies.

7 The Registrar, A.P. Administrative Tribunal, Hyderabad.